

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed August 9, 2005. At the time of the Final Office Action, Claims 26-29, 31 and 33-36 were pending in this Application. Claims 1-25 were previously cancelled due to an election/restriction requirement and Claims 30 and 32 were previously cancelled without prejudice or disclaimer. Claims 26-29, 31 and 33-36 were rejected. Claims 26 and 35-36 have been amended to further define various features of Applicants' invention. Claim 31 has been amended to correct a typographical error. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 26-29, 31 and 33-36 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,068,305 issued to Gary L. Myers et al. ("Myers") in view of U.S. Patent 6,505,095 issued to H. Brock Kolls ("Kolls"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious as amended.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Combination of the References

The Final Office Action fails to establish a *prima facie* case of obviousness, because the motivation to combine Myers and Kolls provided would not suggest the combination to one of ordinary skill in the art. The motivation cited, the desire to ensure that all devices are monitored and interrelated using handheld links for data collection, would not direct the cited combination, and Applicants do not concede any such motivation exists in the prior art.

Myers is directed toward an electronic locking mechanism for a vending machine operable by remote control. Col. 1, lines 62-65. Myers does not describe monitoring the vending machine, collecting data from the vending machine, or networking multiple vending machines. There is no suggestion in Myers to monitor the locking mechanism described in any way, so there can be no motivation to store and collect data associated with the locking mechanism for the purpose of interrelating multiple such devices using handheld links. Thus, there is no suggestion or motivation in Myers to combine the reference with Kolls. Furthermore, there is no suggestion that the teachings of Myers may further the goal provided by the Final Office Action even if combined with Kolls.

Kolls describes monitoring vending machines using an audit type device. While Kolls teaches a system that may allow the monitoring of transactional data at one or more vending machines, there is no suggestion in Kolls that information related to a vending machine lock should be used. It would not have been obvious to one of ordinary skill in the art to combine the teachings of Myers with Kolls to further the goal suggested by the Final Office Action, the monitoring of transactional data from interrelated vending machines, because it is not clear from the prior art how lock access data may be used to advance this goal. Therefore, there is no suggestion or motivation in Kolls to combine the two references.

Applicants submit that motivation cited by the Final Office Action to combine the references would not have directed one of ordinary skill in the art to create the claimed invention. Additionally, there is no motivation anywhere in the references themselves or in the cited prior art to suggest the combination, and therefore the combination is improper. Thus, Claims 26-29, 31 and 33-36 as amended are allowable over Myers and Kolls. Applicants respectfully request allowance of Claims 26-29, 31 and 33-36 as amended.

The Addressable Switch

Amended Claim 26 includes “an addressable switch connected to the electronically controllable lock and operable to engage or disengage the electronically controllable lock,” and “an audit device ... in communication with the electronically controllable lock by means of the addressable switch.” Neither Myers nor Kolls teach or suggest this element of the claim.

Myers discloses a lock connected to electronic circuitry 160. Col. 5, lines 8-10; Fig. 4. It is this electronic circuitry 160 in Myers that receives the unlock command from remote control unit 180. Col. 5, lines 33-40; Fig. 4. The electronic circuitry is not the same as the audit device of the claimed invention, but resembles the addressable switch. Both the addressable switch of the claimed invention and the electronic circuitry receive a signal and in response directly engage or disengage the locking mechanism. For example, Myers teaches connecting the electronic circuitry directly to a motor that operates the lock. Col. 5, lines 13-18. But while the electronic circuitry of Myers receives the signal from a remote control device, the addressable switch of the claimed invention receives the signal from the audit device. This distinction allows for the addressable switch of the current invention to be located inside a vending machine, while the electronic circuitry shown in Myers is exposed on the door of a machine. Figs. 1-5. Because of this location, the electronic circuitry of Myers, and hence the locking mechanism, may be vulnerable to attackers trying to gain entry to the device. An attacker may gain access to the circuitry and need merely short the correct wires to unlock the vending machine.

In comparison, the addressable switch of the claimed invention may be located inside the vending machine. Even if the audit device is exposed on the external surface of the vending machine to receive the unlock signal from the handheld computer, the lock may remain secure. This is because in the claimed invention the audit device may be required to send the correct key with the signal to the addressable switch, or the signal will be ignored. As claimed in amended Claim 26, the audit device will “send a predetermined signal to the addressable switch.” If the signal sent from the audit device is not the predetermined signal, the unlock command will be ignored. Thus, even if an attacker has physical access to the

circuitry of the audit device, the lock will remain secure so long as the attacker cannot generate the predetermined signal.

This example embodiment of the claimed invention demonstrates a functional difference that highlights a patentable distinction in structure between the prior art cited and the claimed invention. Neither Myers nor Kolls teaches an addressable switch arranged as claimed. Since the prior art does not teach or suggest this element of the claim, Claim 26 is believed to be allowable.

Applicants submit that Claim 26 as amended is in condition for allowance. Claims 27-29, 31 and 33-34 are dependent on amended Claim 26 and believed allowable as stemming from an allowable base claim, and also as having independently patentable features. Applicants respectfully request allowance of Claims 26-29, 31 and 33-34 as amended.

The Secure Application Module

Claim 26 also includes “a secure application module.” The Final Office Action did not address this element of the claim, and Applicants do not believe that any similar structure is recited in Myers or Kolls. Even so, Claim 26 has been further amended to recite that the secure application module is contained within the audit device and stores encryption keys. Independent Claims 35 and 36 contain similar limitations. Neither Myers nor Kolls teach a secure application module located within an audit device and storing encryption keys. Therefore, Myers and Kolls do not teach or suggest every element of amended Claims 26 and 35-36.

Applicants submit that amended Claims 26 and 35-36 are in condition for allowance. Claims 27-29, 31 and 33-34 are dependent on amended Claim 26 and believed allowable as stemming from an allowable base claim, and also as having independently patentable features. Applicants respectfully request the withdrawal of the rejection of claims 26-29, 31 and 33-36 as amended.

Electronic Lock Access Data

Amended Claim 26 also recites “the audit device operable to automatically collect and store electronic lock access data.” The Final Office Action cites Kolls at column 38, lines 56-

57 and 65, and at column 29, lines 17-22 and 26 as teaching this element. However, the text cited does not refer to lock access data. At column 38, lines 56-57 Kolls describes monitoring vending equipment operational efficiencies. Operational efficiencies are not equivalent to lock access data. The context further suggests that operational efficiency data is not collected by the audit device, but rather calculated from other data sent to parties away from the vending machine. Col. 38, lines 51-59. At column 38, line 65 Kolls refers to “other type of data.” This is not equivalent to lock access data. “Other type of data” is described in the context of transaction and vending data. There is nothing in Kolls to suggest that other data might be lock access data. Column 29, lines 17-22 of Kolls describes an integrated vending interface unit (VIU) 100. The VIU 100 consists of the system 500 and computing platform 802. Neither of these are or contain an electronic locking mechanism or store lock access data. Column 29, line 26 mentions a plurality of peripheral devices interconnected to an MDB interface and shown in Figure 9. However, none of these peripheral devices is a lock. Applicants note that nowhere in Kolls is the word ‘lock’ present. Furthermore, there is no suggestion anywhere in the system of Kolls to connect the audit device to an electronic lock. Kolls does not suggest storing information related to a structure that is not described or mentioned anywhere in the reference. The only types of data described or suggested in Kolls are types of data associated with transactional data or the operational data of those components, for example a coin mechanism. Additionally, Myers does not disclose storing data of any kind. Therefore, neither Kolls nor Myers teach or suggest this element of amended Claim 26, which is believed to be allowable.

Applicants submit that amended Claim 26 is in condition for allowance. Claims 27-29, 31 and 33-34 are believed to be allowable as stemming from an allowable base claim, and also as having independently patentable features. Applicants respectfully request the withdrawal of the rejection of Claims 26-29, 31 and 33-34 as amended.

Request For Continued Examination

Applicants respectfully submit herewith a Request for Continued Examination (RCE) Transmittal, and a check in the amount of \$790.00 for the required filing fee. Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to

charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

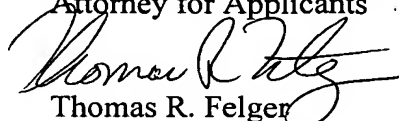
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the Claims as amended.

Applicants believe there are no other fees due other than the above-mentioned RCE filing fee of \$790.00; however, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2599.

Respectfully submitted,
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Enclosures: Request for Continued Examination (RCE) and check in the amount of \$790.00.